692 The operation of these tribunals relied
695 heavily on mass hysteria and mob hatred. The administration of the trials by Party functionaries insured the use of terror. When cases were heard, the judges of the People's tribunals bombarded the masses with propaganda. The masses were sufficiently agitated to denounce as reactionaries those whom the Party had previously singled out for prosecution. After mass emotion was aroused and denunciations were made, judgment was passed by the masses and sentence rendered at the instigation of the adjudication committee controlled by the Party. Such a mass trial could not avoid intimidation and violence toward the accused.

During the Three-Anti and Five-Anti campaigns, People's tribunals were established by the directives of the Government Administration Council.[7] Members of the committee were activists representing various Party-controlled organizations. These tribunals were empowered to mete out death sentences.

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7. Directives on the Three-Anti tribunal in People's Daily, March 31, 1952, p. 1; on the Five-Anti tribunal, ibid., March 25, 1952, p. 1.

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692 Nationalist Government; some 60 per cent were charged with corruption.[10]

Mediation committees were set up to deal with local disputes and disseminate government propaganda. The active participation by the public security sub-stations in the cities and the hsiang governments in the rural areas indicates the political nature of the mediation.[11]

692 695 In regard to the elimination of old judicial practices, the Communists attacked the old system on four counts:[12] (a) that the judiciary was a weapon employed by one class for the suppression of the opposing class; (b) that the exceedingly mechanical procedure of the old courts should be condemned as a bourgeois practice; (c) that the assumption of a purely legalistic approach to a case that does not reflect the economic and social relationship of the society was contrary to the socialist view of law; and (d) that the use of precedents for adjudication of a case should also be discarded as a bourgeois practice.

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10. Ibid., Sept. 27, 1952, p. 1.

11. Report on the conclusion of the campaign in this region, ibid., Dec. 14, 1952, p. 1.

12. Yangtze Daily, Feb. 18, 1951, p. 3, and Li Kuang-ts'an, "P'i-p'ing Jen-min Fa-lü Ti Chiu-fa Kuan-tien" ["Criticizing the People's Law from the Old Jurisprudential Viewpoint"], Hsüeh-hsi [Study], No. 7, Oct. 1, 1952, pp. 16-19.

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692 To stress the development of a new
695 judicial system, the Communists introduced several innovations: (a) the simplification of jurisdiction, the reduction of appellant cases, and the concentration of judicial authority in the lower courts; (b) the adoption of adjudication committees and the administration of law by collegia; (c) the review and periodic check of non-appellant cases by the higher courts and the practice in the lower courts of seeking instructions from and reporting to the higher courts; (d) the conduct of circuit hearings; (e) the use of People's assessors, a system similar to the Western jury system, which includes representatives from various People's organizations; (f) the use of trials for cases involving disputes among Party members and workers in factories, offices, and enterprises; and (g) such new techniques as oral inquiries and on-the-spot investigations and the establishment of People's reception rooms and mediation committees as means of enlisting mass support as well as for the intimidation of the masses.

692 3. The Third Stage. After judicial reform, further effort was concentrated upon the establishment of the new system and the training of new cadre to fill the vacancies which resulted from large-scale liquidation of

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681 The district magistrate goes to the temple, burns incense
696 and makes a declaration to the city god that he has not had these men beheaded for any personal spite or selfish ends, but simply because of their own evil deeds. Returning to his yamen, a heap of straw with crackers is set fire to at the entrance, through which he is carried at a furious pace, *kuo huo yen shan* (過火焰山) (passing the flame-hill), for fear any of the disembodied spirits of the men should have followed him. Many of these men vow before death that after death their chief work will be to kill the official. Hence these past months, during the rebellion, it was said that the soldiers of Hades were moving to help them, *yin ping tung liao* (陰兵動了). The people burned straw sandals by the thousand as an offering to these spirits.

After the executions are over the yamen runners arm themselves with clubs and go round and round the yamen, *p'an ya* (盤衙), and enter the official's private quarters, flourishing these clubs to drive away the evil spirits. They make their obeisance to the official, who in turn gives them a present.

Those remaining in gaol after the midwinter executions, as most probably they may live another year, have a feast together, *t'uan yüan chiu* (團圓酒).

If only one person should be left in the government prison, he may be strangled in prison, *chien hou chiao* (監候絞).

IV. *Torture, K'ao ta hsing* (拷打刑).

695 The following are a few of the methods used to extort confession, etc.:

Kuei t'ai ho (跪抬盒), to kneel in the carrying box. This instrument of torture takes its name from the box frame in which presents are carried from one place to another with one pole between two men. The prisoner is made to kneel in this box, sometimes on ashes, sometimes on broken glass or iron chains. A heavy weight is then placed upon the legs, pressing the knees down into the ashes. The hands are passed through the holes on either side and wedged in

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tightly. A string is then attached to one finger of each hand and pulled tightly outward. The back is covered with incense, which is lighted. This burning incense is often fanned till sometimes the fat drops on the ground. I have known the ribs and backbone to be exposed as the result of this burning. Sometimes long cuts in the flesh are made in the shape of a Chinese waistcoat, these are filled with incense and set fire to; this is called *ch'uan ling chia* (穿領架). The prisoner may stay for hours in this position while the magistrate does other business. When he has promised to confess, he is let down, but if his confessions are not enough he may be put in a second time. Many die as the result of this cruel treatment.

"The monkey moving the log." A high bench is placed in court. The criminal is stretched on it and his thumbs and toes tied to the bench; he is then swung underneath the bench, suspended by his thumbs and toes and a heavy weight is attached to the body. A candle is lit, the flame of which just touches the buttocks—*t o la* (坐蠟), or sitting on the candle.

Tso lan pan têng (坐懶板凳), to sit on the lazy stool. The criminal is made to sit on a stool with his back against a pillar. The legs are tied tightly at the knees and ankles and weights are attached; the hands are tied behind the back and to the pillar; a strong string or oftener a chain is tied round the head tightened with wedges—the *hua ku ku mao* (花箍箍帽), the flowery hat.

Tsan chih (拶指). Needles are stuck in, five under each nail, beginning with the second finger, then the forefinger and finally the other fingers. Both hands are done and this sometimes when the poor creature is kneeling in the *t'ai ho* as described above.

P'ao lo (炮烙) is to brand with hot irons or to place red-hot coins direct on the body.

Tien chih la (點指蠟), to roll the fingers in oil paper and set them on fire. This is what is called burning finger-candles.

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695 To wear iron clothing—garments made of tin are made hot and put on the body.

Pao t'ung chu (抱銅柱), to hug the brass pillar. This is a very ancient custom and iron has now taken the place of the brass. The iron pillar is heated red-hot and the individual made to sit on it, or the poker heated and the back singed.

627 697 *Punishment of prisoners upon prisoners. San ch'ia ssŭ hsing* (三卡私刑). These are illegal punishments meted out by resident criminals upon those who are put in for the first time or have no money to satisfy the claims of the little world within the four walls.

T'uan ts'ang (團倉) is to extort the entrance fee on entering gaol. The newcomer pays for a feast or else he will have to suffer unspeakable indignities and will not be allowed his turn in the receiving of pawned goods in the government gaol.

No one who has not paid up, or got someone to promise to pay for him, will be allowed to worship the gaol god, *pai yü shen*. On worshipping he has to give wine, pork and money all round according to his ability. The gaol god has an interesting history; he is declared to have been a district magistrate, who, out of pity, allowed all the gaol-birds to go home for the new year festivities on the condition that they all returned within three days; but on the expiry of the time, as no one turned up, he himself went into gaol and died of grief, and was afterwards deified as the gaol god.

The beginning of trouble, for one who has not paid the gaol fine, is to be beaten with a straw mat to the front of the gaol god, and if the money or the promise of it is not given, he is beaten unmercifully with a club. Next, the poor novice is tied up in an attitude like the *ling kuan* idol, a fierce, overawing attitude; his naked body is then wound round with paper which is tied on with string; this is set fire to and his whole body blistered more or less. This is termed melting the *ling kuan*.

He is also lifted high in the air and beaten on the bare body with bamboo strips or stinging nettles, *yün tuan hsien shêng* (雲端顯聖), exalting his holiness.

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A tax-gatherer, *liang pan* (糧班), or his sons, may enter the literary examinations, but not the other yamen underlings. 647

The *hu pan* (戶班), or local runner, knows every person in his district and is used in making arrests.

The *p'u pan* (捕班) are the chief jailor's runners, for catching robbers, and the *tsao pan* (皁班), or *hou pan* (吼班), are the "black band" with tall hats, who run shouting before the magistrate's chair, when he goes out on public business.

There are various other bands, messengers, door-keepers, etc., etc.

There is an apprenticeship to this work and often the apprentice suffers for his master's mistakes. If he is beaten, the *ling pan* gives him 400 cash; if he is condemned to the cage he gets 100 per day and 300 cash on release; if he suffers capital punishment, the *ling pan* supports his widow. Many become yamen runners to escape the result of crime, thus eluding the law a little longer. An official can put runners to death and thinks very lightly of doing it.

In some districts there are women thus employed.

Judicial Cases.

A black clothes case, *ch'ing i an* (青衣案), is one where execution is certain as soon as the evidence has been given; generally robbery with violence. 695 •

A red clothes case, *hung i an* (紅衣案), is a difficult case, perhaps of murder; if the accused is clever he may, after years of imprisonment, gain his liberty. If the knife used in a murder cannot be produced the accused cannot be condemned.

Disputes about estates or marrages are called *chêng an* (正案). Petty quarrels are often pursued in the courts till a family is ruined in seeking justice or revenge.

Cases of rebellion or where human relationships are violated; a wife killing a husband, son killing a father, etc., are seldom dealt with in an open, regular way; they are settled in private, the criminal being done to death by the family clan. 627

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A suit may often be stopped, *lan liu* (攔留), by payment of money even after the indictment has been written. In family quarrels this is common, even in life and death cases, as a mother-in-law beating to death her daughter-in-law.

Sometimes one goes straight to the magistrate and calls for redress of a grievance; he must come out or send a deputy; but the usual result is an order to present an indictment.

A first petition being rejected the litigant may try again, altering what the magistrate has objected to, adding necessary witnesses, etc.

Before going to a higher court there are eight ways in which a litigant may appeal to an official against his decision. Sending up documents to a higher court costs a great deal of money, both to the official and to the yamen bureaus.

Tzŭ kao (自稿) is a plea written by the petitioner himself; the language is generally forcible and the copyist adds these two characters.

Tzŭ ch'o (自戳) means stamped by himself. Sometimes a hand or a foot, but usually only the thumb, is put in the ink. The magistrate dreads such cases, for the petitioner will only be satisfied with a decision in his favor, and an appeal to a higher court is probable.

Sometimes litigants are requested to put thumbmarks to a document declaring each side will accept the magistrate's decision and end the case.

When a magistrate is about to leave, cases are sometimes withdrawn, *ch'ou an* (抽案), for fear he should unduly hasten a decision or should leave them undecided to a successor who may shelve them.

Signs of Authority, Followers, etc.

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When the magistrate is judging a case a duplicate of the seal box is hung behind him. A jar of bamboos stands on the table; if he throws down one tally, it means a hundred blows; if he tumbles out all the tallies it means unlimited beating. There are other tallies for other uses; aud there is

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695 693 a box of vermilion ink for signing official documents. These things are called the official's life (性命), *hsing ming*, life, or his 衣, 飯, 碗 *i, fan, wan*, clothes, rice, and bowl.

647 693 On going out his sedan chair is carried by four men, he wears official garments, beads and hat; criers go before and men with boards on which are written his literary degrees and former offices; assistants follow on horseback, and every one, whether riding or on foot, must get out of the way as he passes.

The district magistrate is really the strongest official in a province and has life and death in his hands. He is called the father and mother official, *fu-mu kuan*, and *chêng t'ang* (正堂).

His first class confidential secretary is called *hsing min shih yeh* (刑民師爺) by the official and *hei pi* (黑筆) *shih yeh* by the people. He is also called *mu p'in* (幕賓), or district steward.

The tutor in the magistrate's family ranks with him; at a feast only one of them can be present as he must have the chief seat; the other has a table sent to his own quarters.

The *shu chi* (書記), or *t'ieh hsieh* (帖寫), letter-writer and indictment-maker for the official, is usually a student for the secretariat.

There is an apprentice to the secretary, *mao kai tzŭ shih yeh* (毛蓋子師爺).

Between the official and people is a middleman called *ta yeh* (大爺) *mên kao* (門稿) and other names. He is said to be the magistrate's throat since all business passes through him. His assistant is the *kuan an san yeh*, manager of law-suit documents.

The clerk who puts the red ink finishing touches on official papers is called *ch'ien ya* (簽押). When the seals are used the magistrate or his wife sits by to prevent their unauthorized use.

The *shui ch'i* (稅契) receives taxes on sales of property.